

EXHIBIT 4

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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6
7 IN RE: FOREIGN EXCHANGE Case No.
8 BENCHMARK RATES ANTITRUST 1:13-cv-07789-LGS
9 LITIGATION
10
11
12

13 Deposition of
14 KEITH KORNEILL
15 March 30, 2018
1:52 P.M.

16
17 Taken at:
Landskroner Grieco & Merriman, LC
1360 West 9th Street
18 Cleveland, Ohio
19
20

21 Wendy L. Klauss, RPR
22
23
24
25

1 A. Yes.

2 Q. And who are you represented by in
3 this case?

4 A. Ed Cochran.

5 Q. Is Mr. Pentz serving as your
6 attorney as well, or just Mr. Cochran?

7 A. My understanding is that Mr. Pentz
8 is co-counsel with Mr. Cochran.

9 Q. So to be clear, you consider both
10 of them to be your attorneys in this case?

11 A. I do.

12 Q. Now, I understand you sat in this
13 morning's deposition with Mr. Galan, correct?

14 A. Yes.

15 Q. So you heard me go through the
16 ground rules, correct?

17 A. Yes.

18 Q. Did all those ground rules make
19 sense?

20 A. Yes, they did.

21 Q. We will apply all of those that we
22 did this morning to your deposition today to
23 you.

24 A. Okay.

25 Q. Before going forward, are you on

1 Q. So would you agree that in
2 assessing the reasonableness of an attorney fee
3 for a particular class action case, that it is
4 important to know the particulars of what
5 happened?

6 A. Yes.

7 Q. Are there any differences that you
8 can articulate between the platinum and
9 palladium case and then this FX case here that
10 would make the requested fee in this case
11 inappropriate, whereas the awarded fee in
12 platinum and palladium was acceptable?

13 MR. COCHRAN: Objection.

14 A. I would have no way of knowing
15 that.

16 Q. So other than the platinum and
17 palladium case that we have just been
18 discussing, have you served as a main class
19 plaintiff in any other class action?

20 A. Not that I recall. I may have been
21 in a small stock one, but I can't even tell you
22 what stock it was. But no, I haven't.

23 Q. Other than what you just told me
24 about the other stock case, do you remember
25 anything else about what that case was about,

1 and then the high end is maybe 3,000 during
2 that timeframe. The more volatile they become,
3 the higher they become, the more they raise the
4 margins or lower the margins.

5 Q. What was the typical margin range
6 for the U.S. dollar index that you also traded?

7 A. Again, it was very cheap at that
8 timeframe. Maybe a thousand dollars. Now it's
9 \$3,000.

10 Q. Now, going back to the 2014 to
11 today timeframe, I think you said that your
12 trading has been insignificantly less, right?

13 A. Right.

14 Q. Is that because the margin
15 requirement has increased so much, or is there
16 a different reason?

17 A. The only one I can come up with so
18 far, I have been trading since I was young, I
19 developed a trading system, which was
20 incredibly accurate during that period from
21 2007 to 2011, and basically in 2012, it stopped
22 working, but I didn't stop investing. So I
23 basically lost my working capital to make
24 further investments.

25 Q. Do you know what this lawsuit is

1 about?

2 A. Yes, I do.

3 Q. What's it about?

4 A. It is basically about the big banks
5 doing another one of their things, where they
6 screw people and they got their hand caught in
7 the cookie jar, and they put -- the federal
8 government penalized them, and then we have a
9 settlement for damages to the people that were
10 involved, the victims of it.

11 Q. Were you done? I'm sorry.

12 A. Yeah. I think that's an answer.

13 Q. I just didn't want to cut you off.

14 A. I do it to you all the time.

15 Q. It happens. It's okay.

16 So just digging a little deeper in
17 that, what is your understanding, if any, as to
18 what the banks were doing to screw people, in
19 your words, not mine?

20 A. It sounded to me like they had a
21 given amount of time that they could settle
22 trades in, and when you were buying -- when you
23 were buying a euro or a dollar or whatever,
24 when you were buying it, they juggled that
25 timeframe so you always paid the highest price,

1 when you sold it, you always got the lowest
2 price, and the bank was working on the
3 difference, which could be a small amount, but
4 when you do a number of trades, it becomes a
5 big amount of money.

6 Q. And how long have you known this is
7 what the case was about, at least in your
8 words?

9 A. After I heard about it from John
10 Glase.

11 Q. So you have known about that before
12 today?

13 A. Yes.

14 Q. Can name any of the defendants?

15 A. I know Chase Bank is in there, Bank
16 of America is in there, Credit Suisse. Those
17 are the few that I remember off the top of my
18 head.

19 Q. Have you read any of the various
20 complaints filed by the main plaintiffs in this
21 case?

22 A. No.

23 Q. Do you have an understanding of
24 what claims are being alleged in this lawsuit?
25 And by claims, I mean legal theories,

1 understanding you are not an attorney, but just
2 saying at a high level, what is the legal claim
3 being made, if you know?

4 MR. COCHRAN: Objection.

5 A. Are you talking about the case
6 against the banks or --

7 Q. Yes.

8 A. -- or our case, our objection?

9 Q. Not your objection. I'm talking
10 about the lawsuit that's been filed by class
11 counsel. Do you have any understanding of what
12 claims they are alleging?

13 A. The one I described earlier.

14 Q. Do you understand that in this
15 case, there are two different classes?

16 A. Well, I mean, what I would call the
17 retail classes, there is the people that did
18 the futures, like myself, and then I would call
19 them the institutional side. You call them
20 over-the-counter transactions.

21 Q. So let's call those the exchange
22 class and then the over-the-counter class.

23 A. Yes.

24 Q. Do you know which class you are a
25 member of or claim to be a member of?

1 settlement fund as fees or reimbursement for
2 expenses?

3 A. No, I did not see that.

4 Q. Before filing your objection with
5 the Court, did you contact class counsel to ask
6 them about their efforts in representing the
7 class?

8 A. No. I never got a notice, so I
9 wouldn't know where to even contact them or who
10 it was.

11 Q. Sure. Even after, it sounds like,
12 you were in touch with Mr. Cochran and
13 Mr. Pentz earlier this year.

14 After being aware of the case, from
15 Mr. Glase or from your counsel, did you ever
16 try to contact class counsel to ask them about
17 their efforts in representing the class?

18 A. No.

19 Q. Before filing your objections, did
20 you ever try to find out what class counsel
21 thought they did that would justify their
22 requested attorneys' fees?

23 A. No.

24 Q. Before filing your objection with
25 the Court, did you ever try to find out from

1 class counsel anything about this case?

2 A. No. I mean, I felt I already had
3 counsel, so I didn't need to pursue anyone
4 else.

5 Q. Do you know if anybody on your
6 behalf contacted class counsel, before you
7 filed your objection, trying to learn anything
8 about what class counsel did in this case?

9 A. I wouldn't know what Ed and John
10 Pentz have done or not done.

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12 (Thereupon, Deposition Exhibit 1,
13 Lead Counsel's Notice of Motion for
14 an Award of Attorneys' Fees and
15 Reimbursement of Litigation
16 Expenses, was marked for purposes of
17 identification.)

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19 Q. Handing you what has been labeled
20 Exhibit 1. It is a document filed in this
21 case, ECF number 937, Lead Counsel's Motion For
22 Attorneys' Fees and the Memo in Support of the
23 Motion For Attorneys' Fees and Reimbursement of
24 Expenses. Have you seen this document before?

25 A. No.

1 Q. Okay. You can put that to the
2 side.

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6 (Thereupon, Deposition Exhibit 2,
7 Objection to Request for Attorney's
8 Fees and Notice of Intention to
9 Appear, was marked for purposes of
10 identification.)

11

12 Q. Handing you what has been labeled
13 Exhibit 2, a document filed in this case, ECF
14 963, Objection to Request For Attorneys' Fees
15 and Notice of Intention to Appear.

16 Have you seen this document before?

17 A. Yes.

18 Q. When was the first time you saw it?

19 A. Probably soon after we -- somewhere
20 in the beginning to middle of February.

21 Q. So after it was filed?

22 A. I believe I saw it before it was
23 filed.

24 Q. Did you have any role in either
25 drafting this or developing the arguments that
are contained in this objection?

1 A. No, I didn't.

2 Q. Do you -- strike that.

3 Did you have any objections to
4 class counsel's request for attorneys' fees
5 before talking to your counsel in this case?

6 A. No.

7 Q. Do you think you have a good sense
8 for what your objections are to the class
9 counsel's request for attorneys' fees?

10 A. Yes. Well, I do more so today,
11 after what I heard today, yes.

12 Q. After listening to my questioning
13 of Mr. Galan?

14 A. Yes.

15 Q. So are you saying you didn't really
16 have a good sense to what you were objecting
17 to, until you heard me question Mr. Galan?

18 A. No. It is more why. I had a clear
19 sense that Ed felt that these fees were
20 excessive. I knew there was a lot of millions
21 of dollars of trading that I had done during
22 that time period, so I felt there was valid
23 reason for me to be involved in it.

24 What the exact particulars and
25 which cases he cited in this is his work.

1 Q. So the objection to the size of the
2 fee is your counsel's objection and not yours?

3 A. Yes.

4 Q. Do you have any idea what class
5 counsel did to litigate this case?

6 A. What class counsel did?

7 Q. Yes.

8 A. Oh, no.

9 Q. Do you have any idea how many
10 attorneys billed time to this case?

11 A. No.

12 Q. Do you know how many hours the
13 plaintiffs' attorneys worked on behalf of the
14 class in this case?

15 A. No.

16 Q. Do you know any of the risks class
17 counsel faced in this case?

18 A. No.

19 Q. Do you know what the going market
20 rate is for contingency legal counsel?

21 A. No.

22 Q. Do you recall my questioning this
23 morning of Mr. Galan, where we went through the
24 class notice and talked about how some class
25 members are entitled to only \$15 de minimis

REPORTER'S CERTIFICATE

The State of Ohio,)

SS:

County of Cuyahoga.)

I, Wendy L. Klauss, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, KEITH KORNEILL, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above-referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above-referenced witness.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

1 I do further certify that I am not
2 a relative, counsel or attorney for either
3 party, or otherwise interested in the event of
4 this action.

5 IN WITNESS WHEREOF, I have hereunto
6 set my hand and affixed my seal of office at
7 Cleveland, Ohio, on this 6th day of April,
8 2018.

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14 Wendy L. Klauss, Notary Public
15 within and for the State of Ohio
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17 My commission expires July 13, 2019.
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